

Remarks

The Office Action has required restriction to one of six groups, Groups I-VI. Claims 1-4, 20-25, 27-29, and 35 are treated as linking claims that link Groups I-VI. The Office Action further states that the restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s). Upon the allowance of the linking claim(s), the Examiner will withdraw the restriction requirement as to the linked inventions and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application.

Applicant elects with traverse Group I, Claims 5-11, drawn to a method of restoring fertility by topical application of cytokinin, classified in class 504, subclass 103, for example. With the election of Group I, Claims 1-11, 20-25, 27-29, and 35 are pending for examination on the merits. The allowance of any of the linking claims 1-4, 20-25, 27-29, and 35 shall entitle for examination in the instant application any non-elected claims depending from or otherwise including all the limitations of the allowable linking claim(s).

Notwithstanding the election of Group I, Applicant respectfully traverses the restriction requirement and requests reconsideration and withdrawal or modification of the requirement. The linking claims are directed to methods of producing plants characterized by reversible male-sterility comprising the use of the gai gene and compositions thereof. Groups I-IV relate to specific means of restoring male fertility in plants that are rendered male sterile by expression of the gai gene. With respect, Applicant submits that Groups I-IV all effectuate the same physiological response, i.e. reversal of male sterility in transgenic plants comprising gai. These Groups are, therefore, related and will cause little or no undue burden on the Examiner because a search for reversal of male sterility caused by expressing gai in plants would necessarily cover all or most of the means disclosed in Groups I-IV.

The relatedness of the Groups is also evident in the official definition of classes and subclasses to which the Groups are assigned. For example, Subclass 286 of Class 800, to which Group II is assigned, is indented under Subclass 285, to which Group IV is assigned. Subclass 285 of Class 800, in turn, is indented under Subclass 278, to which Group III is assigned. A search for Subclass 278 would usefully cover both Subclasses 285 and 286. It is submitted, therefore, that there is little or no undue burden on the Examiner to examine the Groups I-IV together in the instant application.

Turning now to Group V, the claims in Group V are directed to a method for preventing or reducing the pollination of plants with pollen containing a transgene comprising obtaining a plant containing a gai gene linked to the transgene. One of the approaches to obtain such a plant is to use a plant homozygous for the pollen-expressed gai gene (claim 31). The production and maintenance of a homozygous gai plant require the use of one of the means depicted in claims of Groups I-IV to render fertile the pollen of the homozygous plant. Applicant respectfully submits that the Groups I-IV and Group V are related and capable of use together, and can be advantageously searched together for the reasons set forth above.

As to Group VI, one of the limitations in claim 32 expressly calls for the use of “an agronomically desirable plant wherein said plant has been made reversibly male-sterile by the method of any of claims 1-20” in interbreeding. It is apparent that Groups I-IV and VI also are related.

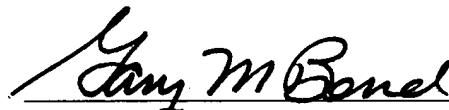
Based on the foregoing, Applicant respectfully requests reconsideration and withdrawal of the restriction requirement and examination of all claims presented in the instant application.

In the alternative, it is submitted that the restriction might be more usefully required among Groups I-IV (considered as a single group relating to reversal of male sterility), Group V, and Group VI. In this event, Applicant would elect the Group

consisting of the current Groups I-IV. Claims pending for examination would include claims 1-25, 27-29, and 35. Upon the allowance of any of the linking claims 1-4, 20-25, 27-29, and 35, the Examiner will also examine the claims of current Groups V and VI.

Lastly, in the event that the current restriction requirement is made final, Applicant requests examination of the provisionally elected Group I and the linking claims 1-4, 20-25, 27-29, and 35 at the earliest opportunity.

Respectfully submitted,



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